

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

THE LUNKENHEIMER COMPANY, <i>et al.</i>	:	Case No. 1:11-cv-824
	:	
	:	
Plaintiffs,	:	Judge Timothy S. Black
	:	
vs.	:	
	:	
TYCO FLOW CONTROL PACIFIC PTY LTD., <i>et al.</i>	:	
	:	
	:	
Defendants.	:	

**ORDER GRANTING PLAINTIFFS AND COUNTERCLAIM DEFENDANTS'
MOTION TO DEEM PLAINTIFFS AND COUNTERCLAIM DEFENDANTS'
RESPONSES TO DEFENDANT AND COUNTERCLAIM PLAINTIFF TYCO
FLOW CONTROL PACIFIC PTY LTD.'S REQUESTS FOR ADMISSIONS
ANSWERED IN TIME (Doc. 80)**

This civil action is before the Court on Plaintiffs and Counterclaim Defendants' Motion to Deem Plaintiffs and Counterclaim Defendants' Response to Defendant and Counterclaim Plaintiff Tyco Flow Control Pacific Pty Ltd. ("TFCP")'s Requests for Admissions Answered in Time (Doc. 80) and the parties' responsive memoranda. (Docs. 81 and 82).

On February 22, 2013, TFCP served Requests for Admission on Plaintiffs/Counterclaim Defendants. (Doc. 81 at 4). Fed. R. Civ P. 36(a)(3) provides that "[a] matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney," and Fed. R. Civ. P. 6(d) allows for an additional three days if served via regular mail. Consequently, written answers or

objections were due from Plaintiffs/Counterclaim Defendants on or before March 27, 2013. (Doc. 81 at 4). However, Plaintiffs/Counterclaim Defendants' third counsel in this matter, Patrick J. Hanley, Esq., had entered his appearance just the day before, on March 26, 2013. (Doc. 67). Pursuant to the status conference by telephone held on April 17, 2013, this Court granted Mr. Hanley 30 days to respond to all outstanding discovery requests in consideration of his need to get up to speed on the case. (Doc. 71). Plaintiffs/Counterclaim Defendants served their responses to TFCP's Requests for Admissions on May 20, 2013. (Doc. 80 at 3).

Federal courts enjoy discretion to permit extensions for answering requests for admission and discretion to accept answers that would otherwise be late. *See United States v. Petroff-Kline*, 557 F.3d 285, 293 (6th Cir. 2009). Based on this discretion, and upon the Court's preference for a full presentation on the merits, and in light of Mr. Hanley's need for a reasonable accommodation of his recent entry into the case, and to the degree that the alleged prejudice in preparing a dispositive motion upon the presumed admissions was somewhat self-inflicted given the Court's granting of an extension on outstanding discovery, the Plaintiffs and Counterclaim Defendants' Motion to Deem Plaintiffs and Counterclaim Defendants' Responses to Defendant and Counterclaim Plaintiff's Requests for Admissions Answered in Time (Doc. 80) is hereby **GRANTED**.

IT IS SO ORDERED.

Date: 6/25/13

s/ Timothy S. Black
Timothy S. Black
United States District Judge